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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,108	10/09/2003	Darold Dean Tippey	17,738	8216
23556	7590	09/19/2006	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			BUI, LUAN KIM	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/682,108

Applicant(s)

TIPPEY, DAROLD DEAN

Examiner

Luan K. Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/106 & 8/30/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-34 is/are allowed.
- 6) ☒ Claim(s) 1-9 and 35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Continued Prosecution Application***

1. The Request for Continued Examination (RCE) filed on 8/30/2006 under 37 CFR 1.114 based on parent Application No. 10/682,108 is acceptable and a RCE has been established. An action on the RCE follows.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 6, 9 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roussel (5,377,837) in view of The Great Britain Patent Application No. 2 310 652 to Bennet (hereinafter Bennet) and Bauer et al. (5,934,470; hereinafter Bauer'470). Roussel discloses a package (1, 2) in the embodiment of Figures 8-10 comprising an enclosed compartment (2) having a pair of oppositely aligned walls (4, 5) and a perimeter, an array of compressible articles (31) retained in the enclosed compartment and the articles having at least one planar surface aligned substantially parallel to at least one of the pair of oppositely aligned walls and being held in compression in a direction that is substantially perpendicular to the planar surface, expansion means (6) including a pliable member (8) for allowing the enclosed compartment to be enlarged and a release strip (18) bridging the expansion means and capable of being at least partially removed to allow the enclosed compartment to be enlarged by the pliable member. Roussel

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further discloses opening means (27, 29, 30) for allowing the package to be opened so the articles can be removed from the enlarge compartment and other limitations of the claims except for the pliable member being position about the entire perimeter in lieu of at least one of the pair of oppositely aligned walls.

Bennet shows a package (10) comprising an enclosed compartment having a pair of oppositely walls (14, 24) and a perimeter and expansion means (26) positioned about the entire perimeter. The package can be enlarged by disconnecting the connections (28) disposed about the entire perimeter of the package (Figure 4). It would have been obvious to one having ordinary skill in the art in view of Bennet to modify the package of Roussel so the pliable member of the expansion means is positioned about the entire perimeter to facilitate expanding. To the extent that Roussel fails to teach the opening means, Bauer'470 teaches a package (10) for compressed articles (11) having opening means (17) for allowing the package to be opened so that the articles can be removed. It would have been obvious to one having ordinary skill in the art in view of Bauer'470 to modify the package of Roussel so it includes opening means for allowing the package to be opened so the articles can be removed from the enlarge compartment to provide more convenience for the user.

As to claims 5 and 6, Roussel discloses the package and the expansion means formed from the same material/integral (Figure 8). As to claim 9, Figure 1 of Roussel shows the expansion means allows the volume of the enclosed compartment to be enlarged by at least about 5%.

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4. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Helfer-Grand (6,427,839). Roussel further fails to show the pliable member being an elastic material. Helfer-Grand teaches a package having expansion means (131) formed from elastic material (Figure 2 and column 7, lines 47-51). It would have been obvious to one having ordinary skill in the art in view of Helfer-Grand to modify the expansion means of Roussel as modified so the pliable member comprises an elastic material/stretchable/separate to allow the package for better expansion and contraction.

5. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 1 above, and further in view of Wright (3,145,840). Roussel further fails to show at least one of the pair of oppositely aligned walls being a semi-rigid material and the material being formed from cardboard. Wright suggests a container (9) having at least a pair of oppositely aligned walls and the walls formed from cardboards (column 2, lines 1-4). It would have been obvious to one having ordinary skill in the art in view of Wright to modify the walls of Roussel as modified so at least one of the pair of oppositely aligned walls formed from cardboard/semi-rigid for better protecting the articles disposed within the package.

***Allowable Subject Matter***

6. Claims 10-34 are allowed.

***Response to Arguments***

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Applicant's arguments with respect to 8/1/2006 have been considered but are deemed to be moot in view of the new grounds of rejection.

Applicant argues that Roussel and Bennet fail to teach or disclose the opening means is noted. This is not persuasive because Roussel discloses the opening means (27, 29, 30, see Figures 10).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is 571-272-4552. The examiner can normally be reached on 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. **The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for Formal papers and After Final communications.**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lkb  
September 15, 2006



Luan K. Bui  
Primary Examiner  
Art Unit 3728